



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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PROCUREMENT AND SYSTEMS
ACQUISITION DIVISION

MARCH 14, 1980

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The Honorable Neil E. Goldschmidt
The Secretary of Transportation

AGC 0028

Dear Mr. Secretary:

Subject: Need for Controls by the Urban Mass Transportation Administration Over No-prejudice Authorizations (PSAD-80-36)

In our reviews of selected mass transit projects being developed with grant assistance under section 3 of the Urban Mass Transportation Act of 1964, we noted that the Urban Mass Transportation Administration (UMTA) is authorizing local transit authorities to incur costs on a "no-prejudice" basis. These authorizations permit local authorities to use local funds for a variety of purposes, such as project development and purchase of buses, with the understanding that such costs may be reimbursed if future grants are approved. UMTA does not guarantee, however, that future grants will be made or that any of the incurred costs will be eligible for reimbursement if a grant is approved.

g/c According to UMTA, as of January 31, 1980, outstanding no-prejudice authorizations totaled about \$265 million. A review of UMTA records showed that the amounts for some authorizations had not been recorded, some amounts represented only the potential Federal share, and some other amounts represented the total project cost.

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The Metropolitan Atlanta Rapid Transit Authority (MARTA) appears to be a major recipient of no-prejudice authorizations. As of January 31, 1980, it had outstanding authorizations of \$161 million, representing potential Federal funding of \$128.8 million and local funding of \$32.2 million.

MARTA gave the following reasons for one of its no-prejudice authorization requests:

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- To avoid unnecessary costs of \$3 million for "turnback facilities" that would not be needed if the additional construction was undertaken.
- To build in logical, usable segments.
- To construct its north and south lines simultaneously in order to obtain financial support of the Georgia General Assembly.

While there are generally certain advantages to maintaining development momentum and constructing logical, usable project segments, we have two basic concerns with no-prejudice authorizations.

^{The} Our first concern is that controls and incentives, such as those embodied in the full-funding contracts executed with transit authorities for developing project segments, are not part of the no-prejudice authorizations.

The primary controls in no-prejudice authorizations limit potential UMTA reimbursement to the amount specified in the authorization and restrict development to broad project areas. The rapid transit authority does not commit itself to completing development of the items within the funding specified in the authorization. Also, UMTA does not specify that it will not provide additional funding authorizations and participate beyond the cost estimate on which the authorization is based, as in its full-funding contracts with transit authorities for developing project segments. In those contracts, UMTA limits further participation to cost overruns due to extraordinary causes, such as inflation beyond specified percentages or eminent domain costs for real estate acquisitions. ~~There~~, Under no-prejudice authorizations, cost increases due to poor management or other inefficiencies could qualify as reimbursable. No-prejudice authorizations also lack incentive for achieving project objectives within a fixed budget, which was cited by the MARTA general manager as a key factor in successful project management.

^{The} Our second concern is that no-prejudice authorizations, in effect, commit funds before the Congress has had an opportunity to determine future appropriations or to approve or disapprove further development of a particular project.

In committing future appropriations, UMTA is not legally bound to fund the no-prejudice authorizations, and thus the congressional options are still available. However, the transit authorities most certainly will expect first consideration for funding from future appropriations, and data we reviewed show UMTA shares this thinking.

In our opinion, any authorizations for project development assistance, particularly under section 3 of the Urban Mass Transportation Act, should deal only with specific identifiable and usable project segments and should include limitations on the period of development and amount of Federal participation. Further, the Congress should be advised of the no-prejudice authorizations outstanding through such means as backup budget material provided to its legislative and appropriation committees. This data would be useful during hearings in deciding the appropriateness of UMTA's actions and the extent of UMTA's funding levels.

RECOMMENDATIONS

Accordingly, we recommend that the Secretary of Transportation direct the Administrator, UMTA, to

- develop procedures to aid in accurately preparing and maintaining records of outstanding no-prejudice authorizations,
- devise controls and incentives for no-prejudice authorizations similar to those presently followed when awarding full-funding contracts to authorities for project development,
- provide oversight of project development during no-prejudice development to assure that only eligible costs are included in future claims for reimbursement, and
- provide data on no-prejudice authorizations in backup budget material furnished to legislative and appropriation committees.

As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days

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after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this letter to the cognizant House and Senate legislative and appropriation committees; the Director, Office of Management and Budget; and the Administrator, UMTA.

Sincerely yours,

A handwritten signature in cursive script that reads "J. H. Stolarow".

J. H. Stolarow
Director